IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO : 1651 of 2002

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 10.10.2002 in WP NO : 20060 OF 2002 on the file of the High Court.)

Between:

K.Madhusudhan Varma, S/o K.V.V.S.S.N.Raju, aged about 38 years, R/o 8-2-120/122/A/4, Road No.9, Jubilee Hills, Hyderabad.

..... APPELLANT

AND

1. Smt. K.Sri Devi, W/o K.Kondala Rao, rep. By her

   G.P.A. Holder Sri K.Kondala Rao, 404, Sai Krishna Apartments, 1-10-123, Ashok Nagar, Hyderabad.

2. The Jubilee Hills Co-operative Housing Building Society Ltd. Rep. By its Secretary G.Narsimha rao, Jubilee Hills colony, Hyderabad.

.....RESPONDENTS

Counsel for the Appellant:MR.S.RAVI
Counsel for the Respondent No1.: MR.A.RAMALINGESWAR RAO
Counsel for R-2:Mr.L.Prabhakar Reddy

The Court made the following :

J U D G M E N T (Per BN,J)

This writ appeal is filed against the order passed by the learned single Judge in W.P.No.20060/2002.

2. The writ petition has been dismissed by the learned single Judge not on merits, but on the ground that the petitioner had not approached the appellate authority and had approached the High Court after a lapse of eight years of the passing of the award.

3. While hearing the learned counsel for the parties, we found that there is no dispute with regard to the ownership of the plots. Both the appellant and 1st respondent own plots at Jubilee Hills, which have been allotted to them by the 2nd respondent – Jubilee Hills Co-operative House Building Society Ltd. The appellant is the owner of plot no.390, whereas the 1st respondent is the owner of plot No.389. 1st respondent wanted specific specifications of his plot and had

made certain applications. Ultimately, the matter was decided by an Arbitrator, under the Co-operative Societies Act. The Society took an appeal, which was dismissed. The Arbitrator gave the following directions:

> "Consequently I direct the respondent society to add the remaining excess land available admeasuring 6 meters in width on the western side by tilting western face of the plot No.389 and also to make consequential adjustments in the plots situated on the western side of plot No.389. In fact by adopting such a course the northern face of not only plot No.389 but also, 390, 391, 391-A and 391-B will be improved and they will be better situated for construction of the house.
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> . . . . . .
>
> In the light of the view taken by me I direct the 6th respondent to hand over the vacant possession of the land 6 meters in width in the eastern side of his plot i.e., plot no.390 to the society which in turn, shall deliver the same to the petitioner."

4. The grievance of the appellant is that, he is loosing land measuring 6 meters and there is no direction in the Award as to how he is to be compensated. On the other hand, the learned counsel for the 1st respondent submits that there is no direction that land should be taken away from the appellant and given to the 1st respondent. As a matter of fact, there is excess land on the side of plot no.391-B, which is sought to be adjusted, by adding to plot no.391-B. Consequently plot no.391-B would exceed, by the land added to it. The same process has to be applied to plot nos. 391-A, 391, 390 and 389. That will only change marginal shape of the plots, but there wont be any change in the area under the plots.

5. Without going into the question with regard to the maintainability of the writ appeal at this point of time, we feel that the interests of justice

would be met, by passing the following direction:

“That the readjustment be made in accordance with the directions of the Arbitrator, provided the plot holder of plot no.390 i.e., appellant, does not loose any land and he retains the area which had been allotted to him by the 2nd respondent – Society.”

6. The appeal is accordingly disposed of, modifying the order of the learned single Judge to the extent mentioned herein above. No costs.

BILAL NAZKI,J

DR.G.YETHIRAJULU,J

AVS

DATE:23.02.2005

To.

1. The Secretary, the Jubilee Hills Co-operative Housing Building Society Ltd. Jubilee Hills colony, Hyderabad.
2. The Co-operative Sub-Registrar O/o The Deputy Registrar of co-operative Societies (Housing) Hyderabad.
3. The Chairman, Co-operative Tribunal, Hyderabad.
4. The Arbitrator/Deputy Registrar of Co-operative Societies (Housing) Bashirbagh, Hyderabad.
5. Two C.D. copies.